

REMARKS

Applicants have carefully reviewed this Application in light of the Office Action mailed March 2, 2007. Claims 1-15 are pending in this Application. Claims 5-7 and 9-10 stand rejected under 35 U.S.C. § 112, second paragraph, and Claims 1, 2, and 8 stand rejected under 35 U.S.C. § 103(a). Claims 5, 7, and 9 have been amended to further define various features of Applicants' invention. New Claims 14 and 15 have been added. Applicant respectfully requests reconsideration and favorable action in this case.

Rejections under 35 U.S.C. § 112

Claims 5-7 and 9-10 were rejected by the Examiner under 35 U.S.C. § 112, second paragraph, as being indefinite and failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. In essence, the Examiner alleges that Applicants' use of the term "and/or" in Claims 5, 7 and 9 renders the Claims indefinite. As for Examiner's rejection of Claim 6, Applicants note that Claim 6 does not contain, nor depend from any Claim including the phrase "and/or." Regarding Claims 5, 7, 9 and 10 Applicants traverse the Examiner's rejection of Claims 5, 7, 9 and 10 in light of the abundance of well-settled case law contrary to Examiner's rejection. However, to avoid additional time and expense of obtaining patent protection, Applicants have amended Claims 5, 7 and 9 to overcome these rejections. Accordingly, Applicants respectfully request reconsideration, withdrawal of the rejection under 35 U.S.C. § 112, second paragraph, and full allowance of Claims 5-7 and 9-10.

Rejections under 35 U.S.C. §103

Claims 1, 2 and 8 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 6,772,245 issued to Gregory M. Pomerantz et al. ("*Pomerantz*"). Applicants respectfully traverse and submit *Pomerantz* does not render the claimed embodiment of the invention obvious.

In order to establish a *prima facie* case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Furthermore, according to § 2143 of the Manual of Patent Examining Procedure, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

A premise of the rejection of Claim 1 is that *Pomerantz* discloses a method for transmission of transmission or received data between two adjacent, series-connected modules in a transmission/reception path of a device for production and processing of data bursts, comprising "information relating to the validity of the transmission data is transmitted from the first module to the second module, and information relating to the reception of valid transmission data is transmitted from the second module to the first module," and "information relating to the validity of the received data is transmitted from the second module to the first module, and information relating to the reception of valid received data is transmitted from the first module to the second module," as recited in Claim 1. (Office Action, Page 3). However, Applicants can find no teaching, motivation or suggestion in *Pomerantz* of "information relating to the validity of the transmission data is transmitted from the first module to the second module, and information relating to the reception of valid transmission data is transmitted from the second module to the first module," and "information relating to the validity of the received data is transmitted from the second module to the first module, and information relating to the reception of valid received data is transmitted from the first module to the second module," as recited in Claim 1.

Applicants note that the portion of *Pomerantz* cited by the Examiner (Col. 3, line 63 to Col. 5, line 55) discloses that a receiving agent may, in situations where the receiving agent may not be able to receive data at a specified rate, request that transmitting agent pause transmission of data. However, the receiving agent's capacity to receive data does not relate to the validity of the data, as recited in Claim 1. Accordingly, *Pomerantz* does not recite, either expressly or inherently, each and every limitation of Claim 1, and thus cannot anticipate Claim 1.

Given that Claims 2 and 8 depend from Claim 1, Applicants respectfully submit that Claims 2 and 8 are allowable. As such, Applicants respectfully request that the Examiner reconsider, withdraw the rejections under 35 U.S.C. § 102(e), and fully allow Claims 1, 2 and 8.

Allowable Subject Matter

Applicants appreciate Examiner's consideration and indication that Claims 3-4 and 11-13 would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims. Applicants will await further decision on the remaining claims before taking action regarding objected to Claims 3-4 and 11-13.

New Claims

Applicants have added new Claims 14-15. New Claims 14-15 add no new matter, and are allowable at least because they depend from and provide further patentable limitations to Claim 1, shown to be allowable above.

CONCLUSION

Applicants appreciate the Examiner's careful review of the application. Applicants have now made an earnest effort to place this case in condition for examination and allowance. For the foregoing reasons, Applicants respectfully request reconsideration of the application and allowance of Claims 1-15, as amended.

Applicants believe there are no fees due at this time, however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.322.2684.

Respectfully submitted,
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Date: May 31, 2007

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